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EXAMINER

KRYLOVA, IRINA

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PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/593,791	Applicant(s) FUCHS ET AL.	
	Examiner Irina Krylova	Art Unit 1796	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 09 November 2009.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 71-111 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 71-111 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|-------------------------------------------------------------------------------------|-------------------------------------------------------------------|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Response to Amendment

1. The amendment filed by Applicant on November 9, 2009 has been fully considered. Cancellation of claims 1-70 and addition of new claims 71-111 is acknowledged. In light of Applicant's amendment filed on November 9, 2009, all previous prior art rejections are maintained, but rewritten to better address the limitations of newly added claims 71-111. The following action is made final.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 71-100, 104-111 are rejected under 35 U.S.C. 103(a) as being unpatentable over **Delaite et al** (US 6,586,528) in view of **Langhauser et al** (US 5,753,773), **Job et al** (US 2002/0037979) and **Rohrmann et al** (US 5,103,030).

3. As to instant claims 71, 79-82, 99, 100, 105-108, **Delaite et al** discloses a propylene polymer composition comprising:

1) 55-74 parts by weight of propylene copolymer comprising less or equal to 1% (preferably less than 0.75%) of ethylene units (as to instant claims 105-106);

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2) 26-45 parts by weight of propylene copolymer comprising 3.5-15 wt% of ethylene units (as to instant claims 79-81, 107-108) ; wherein the composition comprises MFI being at least 1 g/10 minutes, preferably 3-15 g/10 min (as to instant claim 82, cited in col. 3, lines 60-61), as measured under a load of 2.16 kg at 230°C (7.8-9.7 g/10 min in Table 1) (see col. 2, lines 25-35; col. 7, lines 25-36).

As to instant claim 84, the composition is used for making films, sheets or articles by extrusion or injection molding (see col. 8, lines 29-33; col. 4, lines 10-16).

As to instant claim 85, the article comprising the composition is in form of a film (see claims 17-18).

The polymers of the above composition can be prepared in presence of any catalytic system known to be productive and stereospecific (col. 4, lines 27-29).

4. Delaite et al fails to teach the tensile E modulus of the composition, molar mass distribution Mw/Mn, and fails to specify the polymer composition being produced in the presence of metallocene catalyst.

5. Langhauser et al discloses a propylene composition and films/sheets, fibers, shaped articles made from the composition (col. 1, lines 20-24), wherein the composition comprises:

1) 60-80% by weight (see Table) of a copolymer of propylene with 0-5% by weight of C2-C10 alkenes;

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2) 20-40% by weight (see Table) of a copolymer of propylene with 5-98% by weight of further C2-C10 alkenes;

wherein the composition comprises a melt flow index of from 0.5-50 g/10 min at 230°C under a weight of 2.16 kg (col. 2, lines 12-15); polydispersity (Mw/Mn) in the range of 1.83-2.01 (as to instant claims 110-111, cited in col. 8, Table) and shear modulus of 515-770 MPa (Table, col. 8).

6. As to instant claims 72, 86, the composition comprises melting temperature in the range 143-145°C (col. 8, Table).

7. As to instant claim 79, the comonomer comprises ethylene (col. 2, lines 1-2).

8. Though **Langhauser et al** does not explicitly recite the method for producing films/sheets, fibers, shaped articles, however, it is known to a one skilled in the art, that these products are produced by processes including extrusion, injection or blow molding.

9. As to claims 74-78, 94-98, the propylene copolymers were produced using metallocene catalyst comprising methyl- or phenylsilaned bis (indenyl) zirconium halide derivatives similar to the structure claimed in the present invention (col. 3, lines 25-67- col. 4, lines 1-55). In addition, claims 74-78, 94-98 define the product by how the product was made (using specified catalyst). Thus, claims 74-78, 94-98 are product-by-

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process claims. For purposes of examination, product-by-process claims are not limited to the manipulation of the recited steps, only the structure implied by the steps. See MPEP 2113. In the present case, the recited steps imply a structure comprising propylene copolymers with olefins, including ethylene. The reference suggests such a product.

10. Since

1) **Delaite et al** discloses a propylene polymer composition and films produced from the composition by extrusion or injection molding, wherein the composition comprises:

a) 55-74 parts by weight of propylene copolymer comprising less or equal to 1% (preferably less than 0.75%) of ethylene units;

b) 26-45 parts by weight of propylene copolymer comprising 3.5-15 wt% of ethylene units; wherein the composition comprises MFI being at least 1 g/10 minutes, preferably 3-15 g/10 min, as measured under a load of 2.16 kg at 230°C, wherein the polymers of the above composition can be prepared in presence of any catalytic system known to be productive and stereospecific, fails to specify the polymers of the composition being produced in the presence of metallocene catalyst and having a molar mass distribution of 1.5-3.5;

2) **Langhauser et al** discloses a propylene composition and films/sheets, fibers, shaped articles made from the composition, wherein the composition comprises:

a) 60-80% by weight of a copolymer of propylene with 0-5% by weight of C2-C10 alkenes;

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b) 20-40% by weight of a copolymer of propylene with 5-98% by weight of further C2-C10 alkenes;

wherein the composition comprises a melt flow index of from 0.5-50 g/10 min at 230°C under a weight of 2.16 kg (col. 2, lines 12-15); polydispersity (Mw/Mn) in the range of 1.83-2.01 and being produced in the presence of the metallocene catalyst;

3) it is known in the art that using metallocene catalysts for polymerization of polyolefins produces a MWD of 2-3.5 (see [0031] of **Job et al**);

4) it is known in the art that metallocene catalysts are stereospecific (see col. 1, lines 11-23 in **Rohrmann et al**),

therefore, it would have been obvious to a one of ordinary skill in the art at the time of the invention that producing the propylene polymer composition of **Delaite et al** in the presence of metallocene stereospecific catalyst of **Langhauser et al** would produce the propylene polymer composition having a narrow MWD, similar to the MWD of

Langhauser et al.

11. Since the propylene polymer composition of **Delaite et al** in view of **Langhauser et al**, **Job et al** and **Rohrmann et al** is identical to the composition claimed in the instant invention, having MWD, MFR, melting temperature identical to the corresponding properties claimed in the instant invention, therefore, other properties of the composition of **Delaite et al** in view of **Langhauser et al**, **Job et al** and **Rohrmann et al**, including tensile E modulus, haze, dart impact, WVTR, OTR, carbon dioxide

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transmission rate, hexane solubility, would intrinsically be identical to the corresponding properties claimed in the instant invention.

12. Claims 71, 73, 83, 85, 87, 89, 109 are rejected under 35 U.S.C. 103(a) as being unpatentable over **Delaite et al** (US 6,586,528) in view of **Langhauser et al** (US 5,753,773), **Job et al** (US 2002/0037979) and **Rohrmann et al** (US 5,103,030), in further view of **Kawamura et al** (US 2002/0009563).

13. The discussion with respect to **Delaite et al** (US 6,586,528) in view of **Langhauser et al** (US 5,753,773), **Job et al** (US 2002/0037979) and **Rohrmann et al** (US 5,103,030) set forth in paragraphs 3-11 above, is incorporated here by reference.

14. Delaite et al in view of **Langhauser et al**, **Job et al** and **Rohrmann et al** fail to specify tensile modulus and haze of the composition.

15. Kawamura et al discloses a film comprising a mixture of two propylene/ethylene copolymers (A) and (B); being different in the content of the alpha-olefin, wherein the composition is excellent in transparency (see Abstract).

The copolymers (A) and (B) were mixed in different proportions to give different tensile modulus and transparency values (see Table 1).

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16. Since such properties as tensile modulus and transparency of the final composition depend on the relative proportions between the propylene/ethylene copolymers having different content of ethylene comonomer and on the content of ethylene comonomer in the copolymers, as disclosed by **Kawamura et al**, such limitations as a) relative proportions between the propylene/ethylene copolymers having different content of ethylene comonomer and b) the content of ethylene comonomer in the copolymers become result effective variables, therefore, it would have been obvious to one skilled in the art at the time of the invention was made, to make variations in the relative proportions between the propylene/ethylene copolymers having different content of ethylene comonomer and in the content of ethylene comonomer in the copolymers to obtain the desired tensile modulus and transparency values. *In re Boesch*, 617 F.2d 272, 205 USPQ 215 (CCPA 1980) (MPEP 2144.05 II).

17. Claims 100, 101, 103 are rejected under 35 U.S.C. 103(a) as being unpatentable over **Delaite et al** (US 6,586,528) in view of **Langhauser et al** (US 5,753,773), **Job et al** (US 2002/0037979) and **Rohrmann et al** (US 5,103,030), in further view of **Henderson** (US 2004/0033349).

18. The discussion with respect to **Delaite et al** (US 6,586,528) in view of **Langhauser et al** (US 5,753,773), **Job et al** (US 2002/0037979) and **Rohrmann et al** (US 5,103,030) set forth in paragraphs 3-11 above, is incorporated here by reference.

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19. Delaite et al in view of **Langhauser et al** fail to teach multilayer structures or laminates comprising propylene copolymer compositions.

20. Henderson discloses a multilayer coextruded structures having good clarity with low haze, wherein one of the layers comprises propylene copolymers or mixture thereof (Abstract). The propylene copolymers comprise 0.2-10% by weight of ethylene ([0036]). Since **Henderson** discloses similar propylene copolymer composition, as **Delaite et al** in view of **Langhauser et al**, but also specifies the use thereof for making multilayer laminates having good clarity, therefore, it would have been obvious to one skilled in the art at the time of the invention was made, to use the composition of **Delaite et al** in view of **Langhauser et al** in the multilayer structures of **Henderson** to produce multilayer laminates having good clarity with low haze.

21. Claim 102 is rejected under 35 U.S.C. 103(a) as being unpatentable over **Delaite et al** (US 6,586,528) in view of **Langhauser et al** (US 5,753,773), **Job et al** (US 2002/0037979) and **Rohrmann et al** (US 5,103,030), in further in view of **Anderson et al** (US 2004/0029469).

22. The discussion with respect to **Delaite et al** (US 6,586,528) in view of **Langhauser et al** (US 5,753,773), **Job et al** (US 2002/0037979) and **Rohrmann et al** (US 5,103,030) set forth in paragraphs 3-11 above, is incorporated here by reference.

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23. Delaite et al in view of **Langhauser et al**, **Job et al** and **Rohrmann et al** fail to teach coated articles comprising propylene copolymer compositions.

24. Anderson et al discloses a moisture vapor permeable composite sheet comprising a substrate and an extrusion coated polyolefin film layer (Abstract). The polyolefin layer comprises propylene copolymers ([0025]).

25. Since **Anderson et al** discloses a coated article comprising a substrate and a propylene copolymer film, similar to **Delaite et al** in view of **Langhauser et al**, having good MVTR, therefore, it would have been obvious to one skilled in the art at the time of the invention was made to use the composition of **Delaite et al** in view of **Langhauser et al**, **Job et al** and **Rohrmann et al** in the coated article of **Anderson et al**, to produce a coated product with good MVTR.

26. Claim 104 is rejected under 35 U.S.C. 103(a) as being unpatentable over **Delaite et al** (US 6,586,528) in view of **Langhauser et al** (US 5,753,773), **Job et al** (US 2002/0037979) and **Rohrmann et al** (US 5,103,030), in further view of **Agarwal** (US 6,699,543).

27. The discussion with respect to **Delaite et al** (US 6,586,528) in view of **Langhauser et al** (US 5,753,773), **Job et al** (US 2002/0037979) and **Rohrmann et al** (US 5,103,030) set forth in paragraphs 3-11 above, is incorporated here by reference.

28. **Delaite et al** in view of **Langhauser et al**, **Job et al** and **Rohrmann et al** fail to specify the article produced by the injection molding being a large hollow body.

29. **Agarwal** discloses food containers produced from polypropylene by injection molding (Abstract).

30. Since

1) **Delaite et al** in view of **Langhauser et al**, **Job et al** and **Rohrmann et al** disclose a process for making articles comprising injection molding of the polypropylene composition, but fail to specify the article being a hollow body;

2) **Agarwal** discloses food containers produced from polypropylene by injection molding (Abstract), therefore,

it would have been obvious to a one of ordinary skill in the art at the time of the invention was made to use the process of injection molding of the composition of

Delaite et al in view of **Langhauser et al**, **Job et al** and **Rohrmann et al** for making containers as well.

Response to Arguments

31. Applicant's arguments filed on November 9, 2009 have been fully considered. It is noted that since the original claims 1-70 were cancelled, Applicant's arguments are rendered moot. However, the newly added claims 71-111 are rejected over the same art

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as cancelled claims 1-70, therefore, Applicant's arguments regarding the applied prior art, are addressed herein.

32. Regarding the previous rejections set forth in an Office Action mailed on August 8, 2009, Applicant argues that it has not been demonstrated how one would have selected the parts chosen from each of the seven (7) references used in the various combinations suggested by Examiner in order to try and arrive at Applicant's currently claimed copolymer compositions and processes. Though the number of references combined for a rejection under 35 USC 103(a) in and itself is not a basis for traversing an obvious rejection per se; however, this does not mean that Examiner can arbitrarily select a disproportionate number of references to try and create a mosaic of Applicant's currently claimed process. One of ordinary skill in the art would not have been motivated to modify the various seven cited references without the aid of Applicant's specification as a guide.

33. Examiner disagrees.

1) The instant claims are directed to a) a propylene copolymer composition; b) a process for producing at least one fiber, film or molding from the propylene copolymer composition; c) a film comprising propylene copolymer composition; d) an article comprising at least one layer of film comprising the composition; e) a laminate comprising at least one layer of film comprising the composition; f) a coated article comprising a substrate and a film comprising the composition; g) a co-extruded

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multilayer film comprising propylene copolymer composition. Therefore, the instant claims are directed to a propylene polymer composition and different articles comprising that composition.

2) The propylene polymer composition and film were rejected under 35 USC 103(a) as being obvious over **Delaite et al** (US 6,586,528) in view of **Langhauser et al** (US 5,753,773), **Job et al** (US 2002/0037979) and **Rohrmann et al** (US 5,103,030).

It is noted that **Job et al** (US 2002/0037979) and **Rohrmann et al** (US 5,103,030) were applied as those disclosing the prior art knowledge of a) the metallocene catalyst being stereospecific and b) polymerization of propylene in the presence of metallocene catalyst resulting in the production of propylene polymers having lower MWD, than polymerization in the presence of Ziegler-Natta catalysts. Thus, **Job et al** (US 2002/0037979) and **Rohrmann et al** (US 5,103,030) were applied to show the state of the art and also to better recite Examiner's position.

3) Each of the secondary references of **Henderson** (US 2004/0033349), **Anderson et al** (US 2004/0029469) and **Agarwal** (US 6,699,543) were individually combined with **Delaite et al** (US 6,586,528) in view of **Langhauser et al** (US 5,753,773), **Job et al** (US 2002/0037979) and **Rohrmann et al** (US 5,103,030) to address each of the claims regarding laminate, coated article, hollow molding article comprising the above composition.

4) Therefore, the cited seven (7) references were applied to reject each of the multiple independent claims and thus appear to be applied appropriately.

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34. Regarding the rejection of claims 71-100, 104-111 under 35 U.S.C. 103(a) as being unpatentable over **Delaite et al** (US 6,586,528) in view of **Langhauser et al** (US 5,753,773), **Job et al** (US 2002/0037979) and **Rohrmann et al** (US 5,103,030), and further in view of **Kawamura et al** (US 2002/0009563), Applicant argues that:

A) **Delaite et al** discloses the polymer compositions therein are preferably obtained via Ziegler-Natta catalyst systems, including examples. In the instant invention, the propylene polymer composition is produced using metallocene catalyst. The use of Ziegler-Natta catalyst systems leads to poor transparency in the resultant polymer. One of ordinary skill in the art would not have been motivated to modify **Delaite et al** to produce propylene copolymer composition having better transparency values and physical properties.

B) **Langhauser et al** discloses propylene copolymers comprising, preferably, a propylene homopolymer with propylene copolymer having an extremely broad comonomer content range (i.e. 15% to 95%wt of another C2-C10 1-alkene).

C) Applicant refers to Schottek et al (US 7,342,078) as an evidence that combination of propylene homopolymer and propylene/ethylene copolymer produce a composition comprising very high tensile modulus (127.5% to 289% higher than that claimed in the instant invention) and haze ranging from 8-20% on films, which is higher than haze values claimed in the instant invention (less than 5%).

35. Examiner disagrees.

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1) **Delaite et al** discloses a propylene polymer composition, films, injection molded articles comprising: 55-74 parts by weight of propylene copolymer comprising less than 0.75% of ethylene units and 26-45 parts by weight of propylene copolymer comprising 3.5-15 wt% of ethylene units; wherein the composition comprises MFI being 3-15 g/10 min (col. 3, lines 60-61). **Delaite et al** clearly states that the polymers of the above composition can be prepared in presence of any catalytic system known to be productive and stereospecific, permitting the propylene to be polymerized in isotactic form (col. 4, lines 27-29). Though **Delaite et al** recites to preferably use Ziegler-Natta catalyst, nevertheless, **Delaite et al** does not exclude the use of other stereospecific catalysts. While the use of other stereospecific catalysts is not exemplified, this does not negate a finding of obviousness under 35 USC 103 since a preferred embodiment such as an example is not controlling. Rather, all disclosures “including unpreferred embodiments” must be considered. In re Lamberti 192 USPQ 278, 280 (CCPA 1976) citing In re Mills 176 USPQ 196 (CCPA 1972). It is known in the art that metallocene catalysts are stereospecific and used to produce isotactic propylene polymers (see col. 1, lines 11-23 in **Rohrmann et al**) and also are known to produce propylene copolymers having narrow (2-3.5) MWD (see [0031] of **Job et al**). Therefore, it would have been obvious to a one of ordinary skill in the art to produce the propylene polymer composition of **Delaite et al** in the presence of metallocene catalyst as well since metallocene catalyst is also stereospecific and produces isotactic propylene polymers. Furthermore, the instant claims 71 and 84 do not specify the type catalyst being used to produce the propylene composition.

2) On the other hand, **Langhauser et al** discloses a propylene composition comprising:
A) 60-80% by weight of a copolymer of propylene with 0-3% by weight of C2-C10 alkenes (col. 1, lines 58-60); and B) 20-40% by weight of a copolymer of propylene with 5-98% by weight of further C2-C10 alkenes. The ranges of the C2-C10 alkene comonomers in the composition of **Langhauser et al** are overlapping with the corresponding ranges of those claimed in the instant invention. It is well settled that where the prior art describes the components of a claimed compound or compositions in concentrations within or overlapping the claimed concentrations a prima facie case of obviousness is established. See *In re Harris*, 409 F.3d 1339, 1343, 74 USPQ2d 1951, 1953 (Fed. Cir 2005); *In re Peterson*, 315 F.3d 1325, 1329, 65 USPQ 2d 1379, 1382 (Fed. Cir. 1997); *In re Woodruff*, 919 F.2d 1575, 1578 16 USPQ2d 1934, 1936-37 (CCPA 1990); *In re Malagari*, 499 F.2d 1297, 1303, 182 USPQ 549, 553 (CCPA 1974). Therefore, the component A) may be a propylene copolymer having up to 3%wt of ethylene units as well, and not just a propylene homopolymer. While the copolymer of propylene with 0.05-0.99% of ethylene is not exemplified, this does not negate a finding of obviousness under 35 USC 103 since a preferred embodiment such as an example is not controlling. Rather, all disclosures "including unpreferred embodiments" must be considered. *In re Lamberti* 192 USPQ 278, 280 (CCPA 1976) citing *In re Mills* 176 USPQ 196 (CCPA 1972).

The composition of **Langhauser et al** is produced by a multistage polymerization in the presence of metallocene catalyst and thus, also according to the knowledge of prior art,

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comprises a narrow MWD of 1.83-2.01 (col. 8, Table). In addition, the composition of **Langhauser et al** comprises high stiffness values (shear modulus G of 515-770 MPA) (Table, col. 8, col. 6, lines 55-58).

3) Since **Delaite et al** disclosed a propylene composition comprising a blend of propylene copolymer comprising less than 0.75% of ethylene units and propylene copolymer comprising 3.5-15 wt% of ethylene, wherein the composition comprises MFI of 3-15 g/10 min, in the presence of any stereospecific catalyst, but fails to specify the stereospecific catalyst being metallocene catalyst; **Langhauser et al** discloses a propylene polymer composition for making films, comprising a blend of two propylene copolymers, one having 0-3%wt of ethylene units (i.e. may be homopolymer or copolymer with small amount of ethylene comonomer) and the other having 5-98%wt of ethylene units; wherein the composition of **Langhauser et al** having a narrow MWD and high stiffness values (col. 6, lines 55-58), therefore, it would have been obvious to a one of ordinary skill in the art to produce the propylene polymer composition of **Delaite et al** by multistage polymerization in the presence of metallocene catalyst, as taught by **Langhauser et al**, to produce propylene polymer composition having low MWD and high stiffness as well.

4) Furthermore, **Kawamura et al** discloses a film comprising a mixture of two propylene/ethylene copolymers (A) and (B); being different in the content of the alpha-olefin, wherein the composition is excellent in transparency (see Abstract).

The copolymers (A) and (B) were mixed in different proportions to give different tensile modulus and transparency values (see Table 1).

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Therefore, since such properties as tensile modulus and transparency of the final propylene polymer composition depend on the relative proportions between the propylene/ethylene copolymers having different content of ethylene comonomer and on the content of ethylene comonomer in the copolymers, as disclosed by **Kawamura et al**, such limitations as a) relative proportions between the propylene/ethylene copolymers having different content of ethylene comonomer and b) the content of ethylene comonomer in the copolymers, become result effective variables, therefore, it would have been obvious to one skilled in the art at the time of the invention was made, to make variations in the relative proportions between the propylene/ethylene copolymers having different content of ethylene comonomer and in the content of ethylene comonomer in the copolymers to obtain the desired combination of tensile modulus and transparency values. *In re Boesch*, 617 F.2d 272, 205 USPQ 215 (CCPA 1980) (MPEP 2144.05 II).

5) Thus, by producing the propylene polymer composition of **Delaite et al** by multistage polymerization in the presence of metallocene catalyst, as taught by **Langhauser et al**, the propylene polymer composition having low MWD and high stiffness (modulus of elasticity) may be produced. The specific combination of desired modulus of elasticity and desired transparency may be achieved by making variations in the relative proportions between the propylene/ethylene copolymers having different content of ethylene comonomer and in the content of ethylene comonomer in each of the propylene copolymers in the composition, as taught by **Kawamura et al**.

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6) Regarding Applicant's reference Schottek et al (US 7,342,078), it is noted that as discussed above, **Langhauser et al** discloses the use not only of propylene homopolymer but a copolymer of propylene with up to 3%wt of ethylene as well. As recited above, the specific desired values of tensile modulus and transparency could be by obtained by varying the content of ethylene comonomer in the propylene-ethylene copolymers, as taught by **Kawamura et al**. Furthermore, Schottek et al (US 7,342,078), discloses the haze values being 8-20%, wherein independent instant claims 71 and 84 do not recite haze values at all, whereas independent instant claims 85, 100, 101, 102, 103 recite the haze values of less than about 10%, which values are overlapping with the range of haze values recited in Schottek et al, thus establishing prima facie obviousness.

36. Regarding the rejections of claims 100-104 under 35 USC 103(a) as being unpatentable over **Delaite et al** (US 6,586,528) in view of **Langhauser et al** (US 5,753,773), **Job et al** (US 2002/0037979) and **Rohrmann et al** (US 5,103,030), in further combination with individually **Henderson** (US 2004/0033349), **Anderson et al** (US 2004/0029469), **Agarwal** (US 6,699,543), Applicant argues that Examiner has not explained why, absent Applicant's specification, one would have attempted to modify each of the documents with **Delaite et al** (US 6,586,528) in view of **Langhauser et al** (US 5,753,773).

37. Examiner disagrees.

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1) Delaite et al (US 6,586,528) in view of **Langhauser et al** (US 5,753,773), **Job et al** (US 2002/0037979) and **Rohrmann et al** (US 5,103,030) disclose a propylene polymer composition, films and molded articles comprising combination of propylene-alpha olefin copolymers having different amount of ethylene units, wherein the composition is produced in the presence of metallocene catalyst resulting in the composition having narrow MWD and a high stiffness (modulus of elasticity). However, **Delaite et al** in view of **Langhauser et al**, **Job et al** and **Rohrmann et al** fail to teach the use of the propylene polymer films in multilayer articles, laminates, coated articles and hollow molded articles. **Henderson** (US 2004/0033349), **Anderson et al** (US 2004/0029469), **Agarwal** (US 6,699,543) each, correspondingly, recite laminates, coated articles and hollow molded articles comprising the combination of propylene-ethylene copolymers. Therefore, it would have been obvious to a one of ordinary skill in the art at the time of the invention was made to use the films of **Delaite et al** in view of **Langhauser et al**, **Job et al** and **Rohrmann et al** in multilayer laminate of **Henderson** (US 2004/0033349), coated article of **Anderson et al** (US 2004/0029469) and hollow container of **Agarwal** (US 6,699,543) to ensure the cited article having high stiffness as well.

38. It is believed that Applicant's arguments recited in the Response to Examiner's Response to Arguments, are fully addressed in the discussion in paragraphs 31-37 above.

Conclusion

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Irina Krylova whose telephone number is (571)270-7349. The examiner can normally be reached on Monday-Friday 7:30am-5pm EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Vasudevan Jagannathan can be reached on (571)272-1119. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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/Irina Krylova/
Examiner, Art Unit 1796

/Vasu Jagannathan/
Supervisory Patent Examiner, Art Unit 1796

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